

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

FOREST LABORATORIES, INC., ET AL.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 08-21-GMS-LPS
	)	(Consolidated)
	)	
COBALT LABORATORIES INC., ET AL.,	)	
	)	
Defendants.	)	

**STIPULATION AND ORDER OF DISMISSAL  
OF THE BARR DEFENDANTS**

**WHEREAS**, Plaintiffs Forest Laboratories, Inc., Forest Laboratories Holdings, Ltd., Merz Pharma GmbH & Co. KGaA and Merz Pharmaceuticals GmbH (collectively, "Plaintiffs"), initiated an action for patent infringement under 35 U.S.C., § 271(a), (b), (c) and (e)(2) against Defendants Barr Laboratories, Inc., Barr Pharmaceuticals, Inc., PLIVA d.d. and PLIVA-Hrvatska d.o.o. (collectively, the "Barr Defendants").

**WHEREAS**, Plaintiffs allege that the Barr Defendants have infringed U.S. Patent No. 5,061,703 under 35 U.S.C. § 271 (e)(2) by filing ANDA No. 90-045, and would infringe under 35 U.S.C. §271(a), (b) and/or (c) for the commercial use, offer for sale and sale generic products pursuant to ANDA No. 90-045.

**WHEREAS**, the Barr Defendants deny infringement of U.S. Patent No. 5,061,703 and allege that the patent is invalid.

**WHEREAS**, the Barr Defendants have withdrawn ANDA No. 90-045.

**THEREFORE, IT IS HEREBY STIPULATED AND AGREED**, by and between the undersigned, the attorneys of record for the above filed action, subject to approval of the Court, that:

1. All claims and counterclaims by and between Plaintiffs and the Barr Defendants are dismissed without prejudice.

2. Each party shall be responsible for its own fees and costs.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP POTTER ANDERSON & CORROON LLP

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*Attorneys for Defendants Barr Laboratories,  
Inc., PLIVA d.d. and PLIVA-Hrvatska d.o.o.*

SO ORDERED this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Gregory M. Sleet, Chief Judge